IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

WP(C).No. 15719 of 2007(U)

PETITIONER:

THE MANAGER, ST.MARY'S COLLEGE,
SULTHAN BATHERY, WYNAD DISTRICT.

BY ADV. SRI.KURIAN GEORGE KANNAMTHANAM (SR.)
SRI.TONY GEORGE KANNANTHANAM
SRI.JIJI THOMAS

RESPONDENTS:

1. THE STATE OF KERALA, REPRESENTED
BY SECRETARY, REVENUE DEPARTMENT,
GOVT. SECRETARIAT, TRIVANDRUM.

2. THE DISTRICT COLLECTOR, WAYANAD.

3. THE ADDITIONAL TAHSILDAR,
SULTHAN BATHERY.

BY G.P. SHRI.M.R.SABU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.15719 of 2007

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Dated this the 7th day of August, 2007

J U D G M E N T

The petitioner is running an aided college in certain properties which have been assigned to the college as per Ext.P2 Government order. Petitioner's complaint in this writ petition is that by Ext.P4, the petitioner has been directed to vacate the properties on the ground that the occupation of the petitioner is unauthorised. Petitioner submits that there is nothing unauthorised in the occupation of the petitioner in the property mentioned in Ext.P1 in so far as by Ext.P2 order, the Government had assigned the property in favour of the petitioner. The petitioner further submits that in any event Ext.P4 is violative of the principles of natural justice in so far as the petitioner was not heard in the matter.

2. I have heard the learned Government Pleader also.

3. The learned Government Pleader could not satisfy me that Ext.P4 has been issued after a notice and hearing to the petitioner. Ext.P4 also does not contain any reason as to why the

emergency provisions of the Kerala Land Conservancy Act should be invoked. That being so, I am satisfied that Ext.P4 has been passed in violation of the principles of natural justice and therefore, liable to be quashed. However, if Ext.P4 is considered as a show-cause notice, it may not be necessary to quash the same. In the above circumstances, this writ petition is disposed of with the following directions:

The third respondent shall treat Ext.P4 as a show-cause notice. The petitioner shall file his objections to the same within a period of two weeks from today. The third respondent shall afford an opportunity of being heard to the petitioner which shall include opportunity to adduce evidence also. Thereafter, the third respondent shall pass a speaking order considering the objections of the petitioner on the basis of the evidence to be adduced by the petitioner. Till after two weeks from the date of communication of such orders to the petitioner, the petitioner shall not be evicted from the property in question.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.